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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/608,523	06/27/2003	Shawn Bishop	PLC1-H04	3058

7590 07/11/2006  
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EXAMINER
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KARKHANIS, AASHISH

ART UNIT	PAPER NUMBER
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3714

DATE MAILED: 07/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/608,523	<b>Applicant(s)</b> BISHOP, SHAWN	
	<b>Examiner</b> Aashish Karkhanis	<b>Art Unit</b> 3714	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 June 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Oath/Declaration*

1. Examiner has reviewed the Oath or Declaration and has found it to be in compliance.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 – 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Junkin (U.S. Patent 5,846,132).

Regarding Claims 1, 8, 14 and 20, Junkin discloses a network of computing devices comprising two or more participant client computers (col. 18, lins. 44 – 46; where a player operating a personal computer registers a team and is a client participating in a game) in communication with a host computer (col. 18, lin. 43) over a network (col. 18, lins. 47 – 48) with data storage storing information relating to performance of the players in actual competitive events (col. 16, lins. 31 – 33; where a central server tracks actual game statistics throughout a season and stores game data for remote access by any player), a fantasy gaming method executed by said host computer for interaction therewith at said participant client computers (col. 16, lins. 37 – 39; where host and client computers as described above interact to provide a game). Junkin also discloses multiple participants creating multiple respective teams via

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multiple respective client computers (col. 19, lins. 7 – 8; where individual participants up to a specified maximum number build up and recruit for their respective teams) where a first team issues a challenge to engage in a fantasy game issued by said first team to said second team and an acceptance of said challenge by said second team (col. 1, lins. 29 – 33; where a host computer matches teams for play and automatically challenges teams during a regular season). The method solicits and accepts from each participant an initial selection and purchase of players to form the participant's fantasy sports team (col. 5, lins. 21 – 27; where each participant enters a draft to select players for the above team) including a wager (col. 2, lins. 19 – 21; where players may win prizes that may be set up through participants' initial wagers).

Regarding Claims 2 – 3 and 15 – 16, Junkin discloses a game method where a first team challenges a second team to engage in a fantasy game at a future date (col. 1, lins. 29 – 33; where challenges, also called team match-ups, are set before the following week's games are played within a participant's lineup and scores are updated based on game results), and where an acceptance step is preceded by a second team issuing a counterchallenge to a first team, and said acceptance step is an acceptance of said counterchallenge by said first team (col. 1, lins. 29 – 33; where challenges, counterchallenges, and acceptances of challenges and counterchallenges are inherently handled automatically by teams and a game host at a central site when team schedules are formed).

Regarding Claims 4 – 7, 9 – 11 and 17 – 19, Junkin discloses a game method where a challenge creates a first duel (col. 1, lins. 29 – 33; where teams are matched

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up to play against each other each week of the fantasy season) where a victor is determined by performance results of actual players in an actual sporting event (col. 16, lins. 31 – 33; where a player's team whose team members collectively score the most points in a game is awarded with a win for that game). Also, a third participant creating a third team via one said participant client computer where said third team may engage in a second duel with either first or second team, and where a plurality of said teams engage in a plurality of said duels (col. 1, lins. 29 – 33; where multiple teams may participate and all teams play more than one other team, simulating actual play of teams in a regular football season) to determine win-loss records for each said team responsive to victors and non-victors of said duels (col. 1, lins. 29 – 33; where a team accrues wins and losses based on a comparison between scores of dueling teams during a particular game). Performance classification groups of teams are defined responsive to the strength of duel schedule of said respective teams (col. 2, lins. 10 – 12, where teams are ranked based on their strength in winning against other teams during the regular season) and a playoff schedule is created between teams having the highest performance classification (col. 11, lins. 27 – 32; where teams qualify or do not qualify for an All Star reorganization which is similar to playoffs in a fantasy league incorporating a postseason based on regular season rank).

### ***Response to Arguments***

3. Applicant's arguments have been fully considered but they are not persuasive.

Regarding Applicant's note that "Yahoo!" reference does not qualify as prior art, the Examiner respectfully directs Applicant's attention to the link provided, which is a

2001 archival link through a web archival service. The date that the pages in question have been recorded may be verified through the archival service web.archive.org by following the link provided in the Examiner's references.

Applicant maintains that Junkin's only advantage over the prior art is the inclusion of "real time interaction" with a fantasy-type sports game. However, Junkin also incorporates prior art features as will be described below.

Applicant further maintains that "neither the challenge step, neither the acceptance ... step is disclosed hinted at or suggested by Junkin." Examiner respectfully disagrees. As cited earlier by the Examiner and noted by the Applicant, Junkin states in col. 1, lins. 29 – 33:

*As in professional sports leagues, fantasy owners may trade players during a contest. Typically, after the draft, and throughout the season, trades are made between owners of those players not selected in the initial draft. The teams in a fantasy sports league typically accumulate a "won-lost" record by competing head to head against each of the other teams in the league.*

Junkin further states for clarity:

*In a "game" between two teams, the team whose players performed better in the previous week is declared the winner.*

Therefore, Junkin expressly discloses the model of each team challenging another team to build a win-loss record as occurs in real world sports seasons, which is the same method claimed by the Applicant. This accrument of a win-loss record

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inherently suggests a scoring system based on a win-loss record as is done in real world sports leagues, and in fantasy type sports leagues. Further, this method is discussed as prior art in Junkin, and has been incorporated into a basic feature of Junkin as such. Examiner restates that Junkin both explicitly discloses the features of Applicant's claimed invention in the above passages, as well as inherently containing those features not explicitly disclosed.

Applicant also admits in remarks dated 6/05/2006, as well as in previous disclosures, that both "leagues of fantasy sports teams have been a popular pastime for quite some time. Converting individual player performances ... into fantasy sport team owners' team points ... was traditionally executed manually," and "With the evolution of the World Wide Web ... the manual scoring process was replaced with computerized methods." Junkin discusses an identical method that has previously been computed manually, but is now computed by computer using the World Wide Web, as described above.

For the reasons stated above, claims 1 – 20 stand rejected.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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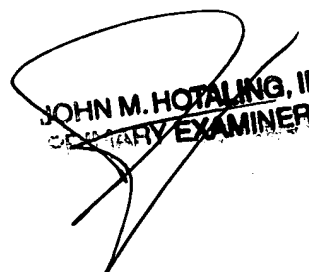
shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aashish Karkhanis whose telephone number is (571) 272-2774. The examiner can normally be reached on 0800-1630 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on (571) 272-6788. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ARK

  
JOHN M. HOTELLING, II  
SENIARY EXAMINER